

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
FIRST APPEAL No 2070 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

and

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIPRASAD VISHNUPRASAD SONI

Versus

SAFI MOHAMMAD SATTARBHAI MEMON

Appearance:

MR BG JANI for Petitioner

MR KM PARIKH for Respondent No. 1 & 2

CORAM : MR.JUSTICE S.M.SONI and

MR.JUSTICE H.R.SHELAT

Date of decision: 02/07/98

ORAL JUDGEMENT

Appeal admitted.

Mr Parikh learned advocate waives service of notice for both the respondents. With the consent of the learned advocates for the parties, this appeal is finally heard today.

Heard the learned advocates. The short question arises is whether the compensation awarded is just or not ? The Tribunal has awarded Rs 83,680/ with 15% interest and costs. The claimant has filed this appeal for enhancement thereof.

The appellant claimant met with a vehicular

accident on 11.11.1989 with the Metador bearing No. GRN-5404 when the appellant was going on cycle alongwith his wife from his residence to Naroda. He met with the accident near the Naroda Railway crossing with the said Metador. As a result of that accident, appellant sustained the crush injuries on the right foot and fracture of 3rd Metatarsal base and traumatic amputation of all the lateral four toes and proximal JP joint of great toe. As a result of the aforesaid injuries, the appellant took treatment in the Civil Hospital from 11.11.1989 to 5.12.1989 as an indoor patient and even subsequently remained bed ridden for couple of months and could not resume his normal work. The appellant claimant serving at the Gujarat Bottling Company Limited was drawing Rs. 1581/ per month and 25% bonus and other benefits. The Tribunal has accepted his salary of Rs 1581/ per month and also accepted that because of crush injuries which resulted into amputation of all the lateral four toes of right leg, what Doctor certified it to be 20% disability. The Tribunal, therefore, accepted monthly income as Rs. 1600/ and permanent disability of 20% , Rs. 320/ per month then comes as economical loss that may be suffered every month. The Tribunal considered to evaluate the loss multiplier of 12, bearing in mind the age of the appellant to be 46 years. The Tribunal also awarded certain amount on different heads. After hearing the learned advocate for the appellant, we are of the view that the Tribunal has not taken care in providing with proper multiplier and also his actual loss of income which he suffered as he was absent from reporting duty. The Tribunal has given multiplier of 12, which in our opinion, is required to be raised to 15 multiplier in the facts and circumstances of the present case, and that additional amount, in our opinion, would come to Rs 11,520/, if calculated for additional multiplier of three. Though it is in evidence that injured could not discharged his duties or could not report to duty for 8 months, the Tribunal has given actual loss of income of six months only, therefore, the claimant is entitled to additional amount of Rs 3200/ for the loss of actual income of two months. So far as the other heads are concerned, we do not find any substance to interfere with the same.

In view of the above discussion, the claimant-appellant is entitled to additional claim of Rs 14,720/, which we round it up to Rs 15000/. Thus, the appellant is entitled to additional claim of Rs 15000/.

In the result, this appeal is partly allowed. The appellant-claimant is entitled to additional amount of Rs

15,000/ with proportionate costs and interest at the rate of 15% per annum from the date of the petition. The Insurance company is directed to pay up the said amount within two months from today. On depositing the said amount, the same be disbursed as per the order of the Tribunal. No order as to costs.
